GAMING-BETTING—SKILL AS THE TEST OF LEGALITY.—PEERS V. CALDWELL [1916] I K. B. 371.—A machine was operated by putting into a slot a half-penny which released a ball, causing it to slide down an incline and collide with pins. Below was a bar with a receptacle which could be manipulated by the user. If he was successful in catching the ball he was to receive 2d. worth of sweets. *Held,* that this was in contravention of sec. 1 of the Betting Act of 1853 making it an offense to use ones' premises for the purpose of receiving money depending on a contingency. Lush, J., *dissenting.*

In support of the principal case see *Barrett v. Flynn* [1916] 2 Ir. 1. But, on the other hand, a manipulation of the very machine of the principal case was held a game of skill under the Gaming Act of 1845 and no offense. *Pesser v. Catt* (1913) 77 J. P. 129. In both cases the English court regarded the element of skill as the test of gaming. In the United States, this test alone is not sufficient. It has been held that an agreement that the loser of a billiard or pool game shall pay for playing, amounts to gaming. *Murphy v. Rogers* (1890) 151 Mass. 118. Similarly, where the loser of a poker game is under an agreement to treat. *State v. Wade* (1884) 43 Ark. 77. But running a horse on the track of an association which contributes the purse is not gambling. *People v. Fallon* (1896) 4 App. Div. (N. Y.) 82. Insurance companies which cover extraordinary contingencies are not questioned as to the legality of their contracts, though having less chance for the exercise of skill in forecasting than one has in a game of cards for stakes. All risks may be insured against except those forbidden by public policy or statute. *Franch v. Hope Ins. Co.* (1835) 16 Pick (Mass.) 397. Three elements seem to be taken into consideration in determining whether or not an agreement to pay on a contingency is gaming within the meaning of the law: first, is skill exercised—the least important element; second, does the enterprise tend toward disorder, or breach of the peace; third, does the public receive any benefit from the aleatory contract?

G. S., Jr.

LIBEL AND SLANDER—STATUTORY ACTION FOR INSULTING WORDS—DAMAGES.—MICHAELSON V. TURK (1916) 90 S. E. (W. Va.) 395.—An action was brought under a statute declaring to be actionable, all words which, from their usual construction and common acceptation, are construed as insults and tend to violence and breach of the peace. *Held,* that the jury might presume malice from the use of the words, and though the defendant might rebut this presumption by showing absence of malice, the plaintiff was entitled to recover for loss of reputation. Mason, J., *dissenting.*

The court treats this case as an action for slander, in which the words are made actionable *per se* by the statute. And although the defendant may show the absence of actual malice, and so protect himself from punitive damages, this will not bar the action. *King v. Patterson* (1887) 49 N. J. L. 417; *Minter v. Bradstreet Co.* (1903) 174 Mo. 444. At common law the basis of the action and the award of damages is the injury to the plaintiff's reputation. *Broderick v. James* (1871) 3 Daly (N. Y.)